

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FRANCISCO A. STECKER,

Defendant-Appellant.

UNPUBLISHED

November 20, 2003

No. 241967

Iosco Circuit Court

LC No. 01-004188-FC

Before: Cooper, P.J., and Markey and Meter, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from his plea-based conviction for first-degree criminal sexual conduct, MCL 750.520b. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant contends the trial court abused its discretion in exceeding the legislative sentencing guidelines range of 51 to 85 months and sentencing him to fifteen to fifty years' imprisonment.

A sentencing court may depart from the sentence range established under the sentencing guidelines if the court has substantial and compelling reasons for the departure and states them on the record. MCL 769.34(3). The court shall not base a departure on an offense or an offender characteristic already taken into account in determining the appropriate sentence range unless the court finds that the characteristic has been given inadequate or disproportionate weight. MCL 769.34(3)(b). The existence of a particular factor is a factual determination reviewed for clear error. *People v Babcock*, 469 Mich 247, 264-265; 666 NW2d 231 (2003). The determination that a factor is objective and verifiable is reviewed as a matter of law. *Id.* The determination that the objective and verifiable factors constitute substantial and compelling reasons to depart from the statutory minimum sentence is reviewed for abuse of discretion. *Id.* The trial court abuses its discretion when it imposes a sentence outside the range of principled outcomes. *Id.*, at 269, 274. But we must defer to the trial court's direct knowledge of the facts and familiarity with the offender when reviewing whether the departure was proper. *Id.* at 269-270.

Substantial and compelling reasons exist only in exceptional cases and reasons justifying departure should keenly or irresistibly grab the court's attention and be recognized as having considerable worth in determining the length of a sentence. *Id.*, 257-258, 272.

The reasons the trial court provided adequately support the departure. Defendant committed a heinous crime. He had many convictions in Canada that were not considered in the guidelines scoring. MCL 777.51(2). The convictions are objective and verifiable and provide substantial and compelling reasons for exceeding the guidelines range. The trial court did not abuse its sentencing discretion.

We affirm.

/s/ Jessica R. Cooper

/s/ Jane E. Markey

/s/ Patrick M. Meter